IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 2825 OF 2003

IN

SUIT NO. 2683 OF 2000

Savitridevi Chhotalal Tiwari
& Ors. .. Plaintiffs.

vs.

Shri Budhiraj Ramnath Tiwari
(since deceased) & Ors. .. Defendants.

Mr. U.S.R. Singh for plaintiffs.
Mr. P.J. Pawar for defendant no.2.

CORAM : S.U.KAMDAR, J.

DATE : 1st February, 2006.

P.C.

. By consent of the parties the following order is passed.

In so far as property no. 1 in Exhibit E is concerned, the same is used, occupied and in possession of the plaintiff. The plaintiff undertakes to this Court that the plaintiff shall not alienate, encumber or create any

third party right or part with possession of the said property being Block No. 12, Plot No. 176, Dr. Keny House, Sion (W), Bombay 400 022. In so far item no. 2 is concerned, the learned counsel appearing for the 2nd defendant states that he shall not alienate, encumber or create any third party right or part with possession in respect of the said property including the premises where the business of Ramesh Dairy Farm is operated till the hearing of the suit. He also undertakes that in respect of the business of Ramesh Dairy Farm he will file accounts every year commencing from 1.4.2005. The accounts will be filed within one month from the expiry of the year i.e. on 31st March of each year. The said accounts to be kept in sealed envelope and copy thereof to be furnished to the plaintiff herein. In so far as item no. 3 is concerned, which is godown admeasuring about 10 ft. x 10 ft. which is situated near Ramesh Dairy Farm at Survey No. 442, Kisan Nagar No. 2, Wagle Estate, Thane, the learned counsel appearing for the defendants states that the defendant no. 1(a) undertakes to this Court that she will not alienate, encumber or create any third party right or part with possession of the said

godown premises. The learned counsel for the defendant no. 1(a) states that the said godown premises is on rent. In that event he will not surrender the said tenancy without prior permission from this Court. In so far as item no. 4 is concerned, according to the learned counsel for defendant no. 2 the ground floor, the 1st floor and 2nd floor of the said premises is sold and disposed of. In so far as the 3rd floor is concerned, the learned counsel for the 2nd defendant states that he is in possession of the 3rd floor and the said defendant no. 2 undertakes that he shall not alienate, encumber or create any third party right or part with possession of the same. He further states that the details of sale of the property on third floor, 1st floor and 2nd floor will be furnished by him to the plaintiff where it is sold or that the property is again under consideration and the loan given. The details thereof will be given within a period of four weeks from today. In so far as item no. 5 is concerned, there is no dispute that the same is already disposed of so that no order can be passed. In so far item no. 6 is concerned, the defendant no. 2 is in possession of the ground floor and first

floor. The first floor premises are already sold. The learned counsel for the defendant states that the said defendant shall not alienate, encumber or create any third party right or part with possession of the said property. He further undertakes that he will file accounts in respect of Tiwari Dairy Farm every ever in terms of the direction in respect of Ramesh Dairy Farm. So far as property no. 6 is concerned, the learned counsel for the defendant no. 2 states that he is in possession of the entire ground floor of the building including one shop and one room which is in possession of Ramdev Ramnath Gupta excluding portion in possession of Ramdev Ramnath Gupta, the defendant no. 2 will not alienate, encumber or create any third party right in respect of the ground floor premises which is in his possession. In so far as first floor premises is concerned, the same are already sold. In so far as Tiwari Dairy Far is concerned, it will abide by the directions as per the direction of account of Ramesh Dairy Farm.

. The present notice of motion is disposed of accordingly in light of the aforesaid undertakings. No order as to costs.